

**BOARD OF ASSESSMENT APPEALS,
STATE OF COLORADO**

1313 Sherman Street, Room 315
Denver, Colorado 80203

**Docket Nos.: 46021 &
47056**

Petitioner:

ST PAUL PROPERTIES, INC,

v.

Respondent:

DENVER COUNTY BOARD OF EQUALIZATION.

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on May 24, 2007, Debra A. Baumbach and Sondra W. Mercier presiding. Petitioner was represented by Richard Olona, Esq. Respondent was represented by Alice J. Major, Esq. Petitioner is protesting the 2005 and 2006 actual value of the subject property.

The Board consolidated Docket Numbers 46021 and 47056.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**6795 Sandown Road, Denver, Colorado
(Denver County Schedule No. 0120400013000)**

The subject includes four warehouse buildings with a total of 355,234 square feet situated on a 13.92 acre site. The buildings were constructed between 1967 and 1975. Ceiling height varies between buildings, ranging from 18 to 22 feet.

The parties presented the following indicators of value:

	Petitioner	Respondent
Market:	\$7,804,500.00	\$13,854,100.00
Cost:	NA	\$12,169,300.00
Income:	\$7,356,123.00	\$12,914,000.00

Petitioner is requesting a 2005 and 2006 actual value of \$7,500,000.00 for the subject property. Petitioner contends that Respondent's value does not adequately reflect the subject's above market vacancy, reported at 35% as of the date of value. Respondent assigned an actual value to the subject of \$11,909,600.00 for tax years 2005 and 2006.

MARKET APPROACH

Petitioner presented three comparable sales ranging in sales price from \$1,950,000.00 to \$4,100,000.00 and in size from 53,020 to 143,610 square feet. After adjustments, the sales ranged from \$17.20 to \$27.58 per square foot. Petitioner correlated to a value of \$22.00 per square foot. Petitioner's sales received significant downward adjustments of 25% to 50%, causing them to be deemed unreliable by the Board.

Respondent presented four comparable sales ranging in sales price from \$1,700,000.00 to \$16,440,000.00 and in size from 39,764 to 455,850 square feet. After adjustments, the sales indicated a range in value from \$33.59 to \$44.52 per square foot. Respondent correlated to a value of \$39.00 per square foot.

COST APPROACH

Respondent used a state-approved cost estimating service to derive a market-adjusted cost value for the subject property of \$12,169,300.00. The Board did not consider the cost approach to be a reliable indicator of value for the subject, which is an investment property.

INCOME APPROACH

Petitioner's income approach was based on a net rentable area of 354,750 square feet. The indicated unadjusted lease rates ranged from \$2.75 to \$3.30 per square foot on a triple net basis for industrial leases. Petitioner applied a \$3.00 per square foot rate and added \$1.00 for common area maintenance ("CAM") reimbursement income. Petitioner deducted 15% for vacancy allowance; 3% for management fee; \$216,750.00 for CAM less property tax; and 10% for operating, maintenance, and reserves (testimony shows 5% for operating and maintenance plus 5% for reserves) to arrive at an annual net income of \$836,219.00. Petitioner capitalized net income at a tax loaded rate of 11.37% to conclude to an indicated value of \$7,356,123.00. The Board finds Petitioner's vacancy rate to be excessive and not reflective of stabilized market conditions. The 3% deduction for management fee is not supported by actual cash flow information. Typically, this would be included in CAM, creating a duplication of expense in Petitioner's analysis. Additionally, the deduction for expenses before taxes plus an additional 5% for operating and maintenance is also a duplication, resulting in an understatement of net operating income.

Respondent's income approach was based on a gross area of 355,234 square feet. The adjusted comparable rents ranged from \$3.64 to \$4.83 per square foot, with both net and modified gross rates included in the analysis. Respondent applied a gross rate of \$4.50 per square foot. Respondent made deductions of 9% for vacancy and collection loss and 13% for expenses before property taxes, resulting in an annual net income of \$1,265,574.00. Respondent's capitalization rate

of 9.80% resulted in an indicated value of \$12,914,000.00. Neither the lease rate nor the capitalization rate used by Respondent were well supported; therefore, neither were deemed reliable by the Board.

CONCLUSIONS

The Board finds that the income approach provides the most reliable indication of value for the subject property. The Board finds that while the subject was suffering from above market vacancy during the base period, neither Petitioner nor Respondent presented testimony suggesting that this excessive vacancy was a result of an incurable functional problem with the building or its location. Consequently, the Board finds Respondent's vacancy deduction of 9% reasonable.

Petitioner presented sufficient probative evidence and testimony to prove that the valuation of the subject property for tax years 2005 and 2006 was incorrect. The Board believes that the net rentable area is what potential investors are going to consider in their analysis. The Board was convinced that the lease rate on a triple net basis should be \$3.00 per square foot, based primarily on a leased signed within the subject during the base period.

The Board recalculated the income approach using a lease rate of \$3.00 per square foot net, a vacancy allowance of 9.0%, and reserve expense of 5%. The resulting net operating income of \$920,044.00 is capitalized at an overall rate of 9.5% (the rate presented by Petitioner prior to adding on an additional property tax rate), rounding to a value of \$9,685,000.00.

The Board concludes that the 2005 and 2006 actual value of the subject property should be reduced to \$9,685,000.00.

ORDER:

Respondent is ordered to reduce the 2005 and 2006 actual value of the subject property to \$9,685,000.00.

The Denver County Assessor is directed to change his records accordingly.

APPEAL:

Petitioner may petition the Court of Appeals for judicial review within 45 days from the date of this decision.

If Respondent alleges procedural errors or errors of law by this Board, Respondent may petition the Court of Appeals for judicial review within 30 days from the date of this decision.

DATED and MAILED this 15th day of August 2007.

BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach
Debra A. Baumbach

Sondra W. Mercier
Sondra W. Mercier

This decision was put on the record

AUG 14 2007

I hereby certify that this is a true
and correct copy of the decision of
the Board of Assessment Appeals.

Heather Heinlein
Heather Heinlein

